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Letter dated 28 January 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 16 December 2004 (S/2004/1003). The Counter-Terrorism Committee has received the attached fifth report from the Czech Republic submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 26 January 2005 from the Permanent Representative of the Czech Republic to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Replying to your letter dated 22 October 2004, I would like to transmit the fifth report of the Czech Republic submitted to the Counter-Terrorism Committee (see enclosure).

The Czech Republic has welcomed the enhanced cooperation with CTC and has been carefully following the outcome of its work. The Czech Republic has been also thoroughly monitoring and analysing all the recommendations and initiatives provided by CTC with respect to the implementation of Security Council resolution 1373 (2001).

Being aware of the importance and urgency that a comprehensive issue such as the fight against terrorism represents, and in order to provide CTC with additional relevant information, the Government of the Czech Republic has provided as a separate annex to its fifth report, Act No. 61/1996 Coll., on some measures against the legalization of the proceeds of crime and on the amendment and supplementation of connected acts.

On behalf of the Czech Republic, I would like to thank CTC for all its efforts in fighting international terrorism.

(*Signed*) Hynek **Kmoníček**
Permanent Representative

Enclosure*

FIFTH REPORT OF THE CZECH REPUBLIC SUBMITTED TO THE COUNTER TERRORISM COMMITTEE PURSUANT TO PARAGRAPH 6 OF THE RESOLUTION 1373 (2001)

1.1

The CTC regards the criminalization of terrorist acts and their financing, and the effectiveness in the protection of the financial system from being used by terrorists, as areas of priority for all States in implementing the Resolution. In that regard, the CTC would be grateful to receive an update of the status of the proposed amendments to Act No. 61/1996, and the proposed "bill of a new Criminal Code" which, according to the Czech Republic Report, inter alia, will:

- ***Obligate entities to report suspicious transactions related not only to money laundering, but also related to the financing of terrorism;***
- ***Provide for reporting by financial institutions and other intermediaries of suspicious financial transactions to the Financial Analytical Unit (FAU) and allow investigation of such reports by the FAU;***
- ***Make legal persons or entities liable for crimes related to the financing of terrorism;***
- ***Make the financial, material, or other support of terrorism a specific crime subject to the same penal sanctions as terrorist acts.***

- Regarding the first two points: major progress has been made in both areas since the presentation of the Czech Republic's fourth report. The amendment to the Anti-Money Laundering Act was passed on 8 April 2004 and took effect on 1 September 2004. It introduces i.a. the duty to report suspicious transactions associated not only with money laundering, but also with terrorist financing. The amendment more clearly defines the natural persons and legal entities falling within the scope of the Act. It broadens the range of government authorities involved in supervision of compliance with the Act. Its provisions concerning the identification of parties to a transaction and verification of their data by competent authorities take into account the use of new technologies. For full text of the amendment, see Annex 1.

- As has already been mentioned in previous reports, the Czech Republic has yet to establish a legal mechanism for the criminal liability of legal entities. In the context of recodification of substantive criminal law, the government proposed to make legal entities criminally liable for a number of crimes, including terrorist crimes and crimes associated with terrorism, such as money laundering and terrorist financing. The liability was to be established by an act on the criminal liability of legal entities and proceedings against them (Chamber of Deputies Bill 745). The bill was rejected by the Chamber of Deputies

* Annexes are on file with the Secretariat and are available for consultation.

of the Parliament of the Czech Republic on 2 November 2004. The executive authorities are currently considering other alternatives that would effectively address the question of liability of legal entities, especially for acts prohibited by international instruments.

- Act No. 537/2004 amending the Criminal Code entered into force on 22 October 2004. It introduces in the Criminal Code new Section 95 (the relevant parts are in printed in bold):

Section 95
Terrorist attack

(1) A person who, with the intention to undermine the constitutional order or defence capability of the Czech Republic, to damage or destroy the fundamental political, economic or social structure of the Czech Republic or of an international organization, to seriously intimidate the population or to unlawfully compel the government or any other authority or an international organization to do, to omit doing or to tolerate anything,

a) commits an attack endangering human lives or health with the aim to cause death or serious bodily harm,
b) takes hostages or kidnaps a person or persons,
c) destroys or causes extensive damage to public installations, transport or telecommunication systems, including information systems, fixed platforms on the continental shelf, power supply installations, water supply installations, medical or any other important facilities, public places or property with the aim to endanger human lives, the safety of an installation, system or place, or to expose property to the risk of extensive damage,
d) disrupts or stops the supply of water, electric power or any other vital natural resource with the aim to endanger human lives or to expose property to the risk of extensive damage,
e) seizes or exercises control over an aircraft, vessel or any other means of passenger or freight transport, or destroys or seriously damages navigation equipment or substantially interferes with its operation, or communicates false information, thereby endangering human lives or health, the safety of such means of transport, and/or exposing property to the risk of extensive damage,
f) without permission, manufactures or otherwise acquires, holds, imports, transfers, exports or otherwise supplies or uses explosives, a nuclear, biological, chemical or any other weapon with mass destructive effects, and/or carries out, without permission, research and development of nuclear, biological, chemical or any other weapon or means of combat or explosives prohibited by law or by an international treaty, or
g) exposes people to the risk of death or serious bodily harm or exposes another person's property to the risk of extensive damage by causing a fire or flood or the harmful effects of explosives, gas, electric power or other similarly dangerous substances or forces, or commits other similarly dangerous acts, or increases or aggravates such public endangerment or impedes the steps taken to avert or alleviate it,

shall be punished by imprisonment for a term of five to fifteen years in addition, according to the court discretion, also by the forfeiture of property.

(2) The same **sanctions shall be imposed on a person who**
a) threatens to commit the acts described in paragraph 1 above, or
b) **provides financial support, supplies material resources or provides other support for such acts.**

(3) The offender shall be punished by imprisonment for a term of ten to fifteen years accompanied by forfeiture of property as the court deems fit, or by an exceptional sentence,

a) if he or she commits the act described in paragraph 1 above as a member of an organized group,
b) if by the act he causes serious bodily harm or death,
c) if by the act he or she renders a large number of people homeless,
d) if by the act he or she causes major difficulties in the production or supply of basic goods,
e) if by the act he or she causes extensive disruption of transport,
f) if by the act he or she causes extensive damage,
g) if by the act he or she or another person gains substantial profit,
h) if by the act he or she seriously endangers the international position of the Czech Republic or the position of an international organization of which the Czech Republic is a member, or
i) if he or she commits the act during the state of national emergency or the state of war.

(4) The protection under paragraphs 1-3 above is accorded also to foreign States.

It is also a crime to abet this crime (Section 166, paragraph 2 of the Criminal Code), to fail to prevent it (Section 167 of the Criminal Code), and to fail to report it (Section 168 of the Criminal Code).

The amendment considerably broadens the scope of the provisions on criminal conspiracy and tightens the sanctions, with an explicit reference to Section 95 of the Criminal Code:

Section 163a
Participation in a criminal conspiracy

(1) A person who **establishes, participates in or supports** a criminal conspiracy shall be punished by imprisonment for a term of two to ten years or by forfeiture of property.

(2) The offender shall be punished by imprisonment for a term of three to ten years, if he or she commits the act described in paragraph 1 above in connection with a criminal conspiracy aiming or seeking to commit terror (Section 93) or a **terrorist attack (Section 95)**.

(3) The offender shall be punished by imprisonment for a term of five to fifteen years, if he or she is a leader or senior representative of a criminal conspiracy aiming or seeking to commit terror (Section 93) or a **terrorist attack (Section 95)**.

(4) The provisions of Sections 43 and 44 shall not be applied to perpetrators of the acts described in paragraphs 1, 2 and 3 above.

1.2

The CTC would also appreciate it if the Czech Republic could provide an outline of the foregoing new or proposed provisions, as well as any other measures contemplated to strengthen combating the financing of terrorism legislation, and the financial sector regulatory and supervision mechanism.

Some of the relevant provisions are cited in 1.1 above. As has already been mentioned, the draft new Criminal Code, which has successfully passed through the first reading in the Chamber of Deputies of the Parliament of the Czech Republic, contains a clause identical with Section 95 of the present Criminal Code (Section 287 in the draft new

Criminal Code), and a clause roughly similar to Section 163a of the present Criminal Code (Section 338 in the draft new Criminal Code).

Other relevant major changes proposed in the draft new Criminal Code include:

Forfeiture of assets of equivalent value

Draft Section 71 enables the forfeiture of assets of equivalent value in situations where assets that could be subject to forfeiture under Section 70, paragraphs 1 and 2, have been destroyed, damaged, transferred, rendered unserviceable or used up or expended by the offender already before the court issued the forfeiture order, or where the offender otherwise prevents the forfeiture of such assets. Since some assets, though considerably damaged, may retain their dangerous properties (e.g. radioactive material, components of weapons and explosives), the draft new Criminal Code permits the court to order, along with the forfeiture of such destroyed, damaged or unserviceable assets under Section 70, paragraph 1, also the forfeiture of assets of equivalent value:

(draft)

Section 70

Forfeiture of assets

The court may order forfeiture of assets

a) that have been used to commit a crime,
b) that have been designed for use in committing a crime,
c) that have been acquired by means of a crime or as a remuneration for a crime, or
d) that have been acquired, even partly, in exchange for the assets mentioned in c) above, if the value of the assets mentioned in c) above is not negligible in comparison with the value of the acquired assets.

(1) The court may order forfeiture only if the assets concerned belong to the offender.

(2) If the offender possesses, without permission or in violation of laws and regulations, the assets described in paragraphs 1 and 2 that may be subject to forfeiture, the court shall in all cases order forfeiture.

(3) Pending the entry into force of the court order, it is prohibited to transfer or otherwise dispose of the forfeited assets with the aim to prevent the execution of the forfeiture order.

(4) Forfeited assets become State property.

Section 71

Forfeiture of assets of equivalent value

(1) If the offender has destroyed, damaged, transferred, rendered unserviceable or used, in particular used up or expended, any assets that could be subject to forfeiture under Section 70, paragraphs 1 and 2, or where the offender has otherwise prevented the forfeiture of such assets, the court may order the forfeiture of funds up to the amount corresponding to the value of such assets; the value of assets that could be subject to forfeiture may be estimated by the court.

(2) If the assets have been destroyed or damaged or rendered unserviceable, the court may order the forfeiture of assets of equivalent value along with the forfeiture of assets under Section 70, paragraph 1.

(3) The forfeited assets of equivalent value become State property.

Increased sanctions for money laundering

In the field of money laundering, the Criminal Law of the Czech Republic applies the „all crimes approach". As has already been mentioned in previous reports, the applicable Section 252a of the Criminal Code punishes legalization of proceeds of crime ("basic" crime without aggravating circumstances) by imprisonment for up to two years and/or by a fine. The corresponding section in the draft new Criminal Code (Section 192) increases this basic sanction and adds other aggravating circumstances in paragraph 4 (see text); however, if the proceeds have been gained by a crime which carries lower sanctions (e.g. theft of USD 10 from the victim's pocket), the court will impose such moderate sanctions:

(draft)

Section 192

Legalization of proceeds of crime

A person who conceals the origin or otherwise seeks to substantially impede or prevent the establishment of origin of assets or other property gains that he has acquired by means of a crime committed in the Czech Republic or abroad, with the aim to create the impression that the assets or property gains have been acquired in accordance with law, or who facilitates the commission of such act by another person, shall be punished by imprisonment for up to four years, by a fine, forfeiture of assets or ban on professional activities; if he or she commits such act in connection with assets gained by means of a crime which carries moderate sanctions, he or she shall be punished by such moderate sanctions.

The offender shall be punished by imprisonment for a term of six months to five years or by a fine or by a ban on professional activities,

a) if he or she commits the act described in paragraph 1 as a member of an organized group,
b) if he or she commits such act in connection with assets or property gains of a high value, or
c) if by the act he or she gains substantial profit for himself or herself or for another person.

The offender shall be punished by imprisonment for a term of two to eight years or by forfeiture of property

a) if he or she commits the act described in paragraph 1 above in connection with assets or property gains originating from trade in narcotic or psychotropic substances, with preparations containing them, with precursors and auxiliary substances used for illicit production, or from any other especially serious crime,
b) if he or she commits such act in connection with assets or property gains of a substantial value,
c) if by the act he or she gains major profit for himself or herself or for another person, or

d) if he or she misuses his or her position at work, or his or her office, in committing such act.

(1) The offender shall be punished by imprisonment for a term of three to ten years or by forfeiture of property,

a) if he or she commits the act described in paragraph 1 in connection with an organized group active in more than one country,

b) if he or she commits such act in connection with assets or property gains of high value, or

c) if by the act he or she gains substantial profit for himself or herself or for another person.

(2) Preparation for this crime also constitutes a crime.

1.3

The CTC regards it as a priority for all States to become parties to all 12 international anti-terrorism conventions and protocols and to implement them in domestic law. In particular, the International Convention for the Suppression of the Financing of Terrorism, 1999, (the Financing Convention) provides, in part, that the offences set forth in the subject treaties must be criminalized in domestic law and be included in those laws related to the prevention of the financing of terrorism. The information provided by the Czech Republic to date does not give a clear indication of all such actions taken or contemplated by the Czech Republic with regard to implementation of these treaties. In this regard, please provide the CTC with an update of both completed and contemplated action in relation to the implementation in Czech domestic law of those prohibited offences contained in these anti-terrorism conventions, that have not yet been so implemented. The CTC is particularly interested in the status of the actions being taken to become a party to the Financing Convention, and its implementation in domestic law.

The Czech Republic regards the implementation of international treaties on the fight against terrorism as a significant element of the international community's efforts. Beside ratification, it places emphasis above all on functional implementing legislation.

The Czech Republic's initial report to the CTC (S/2001/1302) lists the relevant instruments, with information whether the Czech Republic is a party or signatory. The following is an updated information on the twelve anti-terrorist conventions published on http://untreaty.un.org/English/Terrorism.asp (situation at the end of 2004).

1)Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973; signed on 11 October 1974; came into force on 20 February 1977

The Czech Republic is a party to the Convention. The relevant substantive commitments have been incorporated in the Criminal Code. Article 2 of the Convention is implemented especially by the following provisions of the Criminal Code: Section 219 (murder), Sections 221 and 222 (bodily harm), Section 231 (restriction of personal liberty),

Section 232 (deprivation of personal liberty), Section 233 (abduction abroad), Section 234a (taking hostages), Section 235 (extortion), Section 238 (arbitrary interference with home), Section 8 (attempted crime) and Section 10 (complicity). Other provisions may be applied depending on the circumstances of the crime (e.g. if the person enjoying international protection is a minor, the case may be tried under Section 216 of the Criminal Code – kidnapping). Under certain circumstances, an attack directed against persons enjoying international protection may constitute the crime of terrorist attack under Section 95 of the Criminal Code (in particular paragraph 1 a, b, e).

2) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979; accession on 27 January 1988, came into force in the Czechoslovak Socialist Republic on 26 February 1988

The Czech Republic **is** a party to the Convention. Its Articles 1 and 2 are implemented especially by Section 234a of the Criminal Code (cited below). Provision of Section 95, paragraph 1 b) of the Criminal Code might apply as well.

Section 234a
Taking hostages

(1) A person who takes another person hostage and threatens to kill him or her or to cause him or her bodily harm or any other serious harm with the aim to compel others to do, to omit doing or to tolerate anything, shall be punished by imprisonment for a term of two to eight years.

(2) The offender shall be punished by imprisonment for a term of three to ten years,
a) if he or she commits the act described in paragraph 1 as a member of an organized group,
b) if the hostage is a person under the age of eighteen years,
c) if he or she takes hostage more than one person, or
d) if by the act he or she causes serious bodily harm.

(3) The offender shall be punished by imprisonment for a term of ten to fifteen years, if by the act described in paragraph 1 he or she causes death.

3) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997; signed on 28 July 1998; ratified on 6 September 2000; came into force on 23 May 2001.

The Czech Republic **is** a party to the Convention. The provisions of its Articles 1 and 2 are implemented by Section 179 of the Criminal Code (cited below). Other provisions of the Criminal Code, such as unauthorized arming (Section 185) or the development, production and possession of prohibited means of combat (Section 185a) might apply as well:

Public endangerment
Section 179

(1) A person who deliberately exposes other people to the risk of death or serious bodily harm or exposes another person's property to the risk of extensive damage by causing a fire or flood or the harmful effects of explosives, gas, electric power or other similarly dangerous substances or forces, or commits other similarly dangerous acts (public endangerment), or

who increases such public danger or impedes the steps taken to avert or alleviate it,
shall be punished by imprisonment for a term of three to eight years.

(2) The offender shall be punished by imprisonment for a term of eight to fifteen years,

a) if he or she commits the act described in paragraph 1 above as a member of an organized group,
b) if he or she commits the act once again within a short period of time, or
c) if by the act he or she causes serious bodily harm to or death of more than one person, extensive damage or any other especially serious consequences.

(3) The offender shall be punished by imprisonment for a term of twelve to fifteen years or by an exceptional sentence

a) if by the act described in paragraph 1 above he or she deliberately causes death, or
b) if he or she commits such act during the state of national emergency or the state of war.

In the case of public endangerment (Section 179 of the Criminal Code), it is also a crime to prepare for such acts (e.g. to obtain components and build an explosive device for the purpose of an attack under Section 2, paragraph 1 of the Convention), even if the offender has not yet attempted to actually commit the act. Even the simple act of acquiring and holding explosives without permission is classified as an accomplished crime under Section 185, paragraph 2 a) of the Criminal Code. Similar acts are covered also by Section 95, paragraph 1.

4) International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999, signed on 6 September 2000.

The Czech Republic is **not yet a party** to this Convention because the mechanism necessary for its domestic implementation is not yet fully in place. In particular, as mentioned in 1.1 above, the bill on criminal liability of legal entities was rejected by the Parliament on 2 November 2004. The executive authorities are currently considering other alternatives that would effectively address the question of liability of legal entities, especially for acts prohibited by international instruments.

The Czech Republic is a party to most of the conventions referred to in the annex to this Convention, except for instruments 7 and 8.

The obligation to punish the financing of all acts criminalized on the basis of the instruments listed in the annex to the Convention has been fulfilled on the basis of the applicable general provisions of the Criminal Code, covering preparation for a crime, complicity and conspiracy, as has been explained in greater detail in the Czech Republic's initial report (see S/2001/1302, sections 1.1.b and 1.2.a.B), in its first update (see S/2002/872, comments on subsections 1(d) and 2(a)) and in the second update (see S/2003/261, section 1.2 and Annex I). The range has recently been broadened by introduction of a clause defining the crime of terrorist attack (Section 95 in the present Criminal Code, Section 226 in the draft new Criminal Code), specially designed to punish

serious acts committed with a terrorist intent. As stated in the government's explanatory report to the Parliament, the amendment reflects the especially serious and reprehensible nature of these acts. These provisions can be applied only to natural persons.

5) *Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963; acceded to on 23 February 1984; came into force in the Czechoslovak Socialist Republic on 23 May 1984.*

The Czech Republic is a party to the Convention. The Convention does not require the introduction of a specific new crime. As regards Article 11 of the Convention, see comments on the following instruments.

6) *Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970; ratified on 6 April 1972; came into force in the Czechoslovak Socialist Republic on 6 May 1972.*

The Czech Republic is a party to the Convention. Articles 1 and 2 of the Convention are implemented by the above-mentioned Section 180a of the Criminal Code. Provision of Section 95, paragraph 1 e) of the Criminal Code might apply as well.

Endangering the safety of aircraft and civil vessels

Section 180a

(1) A person who on board aircraft or a civil vessel, with the intention to seize or exercise control over such means of transport

a) uses force or threat of immediate violence against another person,
b) threatens another person with death, bodily harm or extensive damage, or
c) takes advantage of another person's defencelessness

shall be punished by imprisonment for a term of eight to fifteen years or by forfeiture of property.

(2) The offender shall be punished by imprisonment for a term of twelve to fifteen years or by an exceptional sentence, with any of these sentences accompanied by forfeiture of property as the court deems fit,

a) if by the act described in paragraph 1 above he causes death, or
b) if he commits such act during the state of national emergency or the state of war.

7) *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971; ratified on 10 August 1973, came into force in the Czechoslovak Socialist Republic on 9 September 1973* and

8) *Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation; signed at Montreal on 24 February 1988; ratified on 19 March 1990; came into force on 18 April 1990.*

The Czech Republic is a party to both the Convention and the Protocol. The acts described in Articles 1 and 1bis of the Convention are covered by some of the above-mentioned provisions of the Criminal Code, including Section 219 (murder), Section 179 (public endangerment), and Sections 180b and 182 cited below. Another relevant provision is Section 95, paragraph 1 a), e) and g) of the Criminal Code.

Section 180b

A person who communicates false information that may endanger the safety or operation of an aircraft during flight or a civil vessel during voyage, shall be punished by imprisonment for up to three years or by a fine.

Section 182

(1) A person who deliberately endangers the operation of

a) public telecommunication facilities, facilities of a postal operator's licence holder or public transport facilities,
b) installations designed for protection against the release of pollutants,
c) power- and water supply facilities,
d) public installations designed for protection against fire, flood or any other natural disasters,
e) submarine cables or submarine pipelines,
f) installations designed for defence or protection against air or similar attacks or their consequences, or
g) any similar public benefit facilities

shall be punished by imprisonment for up to three years or by a fine.

(2) The offender shall be punished by imprisonment for a term of one to six years,

a) if by the act described in paragraph 1 he or she causes failure of a public benefit facility, or
b) if he or she commits such act during the state of national emergency or the state of war.

9) Convention on the Physical Protection of Nuclear Material; signed on 14 September 1981, ratified on 23 April 1982, came into force on 8 February 1987

The Czech Republic **is** a party to the Convention. The acts described in Article 7 of the Convention are covered by the above-mentioned Section 179 of the Criminal Code (public endangerment), Section 219 of the Criminal Code (murder) and some other general provisions of the Criminal Code, such as Section 234 (robbery), Section 235 (extortion), Section 247 (theft), Section 248 (embezzlement) and the following sections:

Section 185a

Development, manufacture and possession of prohibited means of combat

(1) A person who develops, manufactures, imports, exports, holds or stockpiles weapons, means of combat or explosives prohibited by law or by an international treaty approved by the Parliament, or who otherwise handles such weapons, means of combat or explosives shall be punished by imprisonment for a term of one to five years.

(2) The same penalty shall be imposed on a person who designs, builds or uses facilities designed for the development, manufacture or stockpiling of the weapons, means of combat or explosives referred to in paragraph 1 above.

NB: The international treaties mentioned in paragraph 1 include namely:

- NPT (published in Ministry of Foreign Affairs Notice No. 61/1974);
- CWC (MFA Notice No. 94/1997);
- BTWC (MFA Notice No. 96/1975).

Section 186

Unauthorized production and possession of radioactive material and seriously hazardous substances

(1) A person who without permission produces, transfers through the country, possesses or obtains for another person radioactive material or any other seriously hazardous substance or things necessary for its production, shall be punished by imprisonment for a term of one to five years, by a ban on professional activities or by a fine.

(2) The offender shall be punished by imprisonment for a term of two to ten years,

a) if by the act he or she causes serious bodily harm,
b) if by the act he or she gains major profit.

(3) The offender shall be punished by imprisonment for a term of eight to fifteen years,

a) if by the act described in paragraph 1 above he or she causes serious bodily harm to more than one person or death,
b) if by such act he or she gains substantial profit, and/or
c) if he or she commits the act as a member of an organized group.

10)Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988; and

11)Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.

The Czech Republic **is not** a party to the Convention and the Protocol.

Update on the information in section 3(d) of the Czech Republic's initial report: The Czech Republic will become a party to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf in the coming months, it has already deposited its instruments of ratification with the depositary of the Convention and the Protocol.

To facilitate the ratification of both instruments, references to unlawful acts against the safety of fixed platforms on the continental shelf have been incorporated in the provisions in Sections 267 and 268 of the draft new Criminal Code. The new penalties for aggravated crimes under Section 267, paragraph 2 will be stricter than before (currently the maximum penalty for crimes under the present Section 180a, paragraph 2 of the Criminal Code is fifteen years). Otherwise, the text of new Sections 267 and 268 is roughly similar to Sections 180a and 180b in the present Criminal Code. Tighter sanctions are proposed also in new Section 269. According to the present Section 180c, higher penalties may be imposed only if the act causes death (imprisonment for ten to fifteen years or exceptional sentence).

(draft)

Section 267

Seizing control over an aircraft, civil vessel and fixed platform

(1) A person who on board aircraft, civil vessel or on a fixed platform on the continental shelf, with the intention to seize or exercise control over such means of transport or over such platform

a) uses force or threat of immediate violence against another person,
b) threatens another person with death, bodily harm or extensive damage, or
c) takes advantage of another person's defencelessness,

shall be punished by imprisonment for a term of eight to fifteen years or by forfeiture of property.

(2) The offender shall be punished by imprisonment for a term of twelve to twenty years or by an exceptional sentence, with any of these sentences accompanied by forfeiture of property as the court deems fit,

a) if by the act described in paragraph 1 above he or she causes serious bodily harm to at least two persons or death, or
b) if he or she commits such act during the state of national emergency or the state of war.

(3) Preparation for this crime also constitutes a crime.

Section 268

Endangering the safety of an aircraft and a civil vessel

A person who communicates false information that may endanger the safety or operation of an aircraft during flight or a civil vessel during voyage shall be punished by imprisonment for up to three years or by a ban on professional activities.

Section 269

Hijacking an aircraft to a foreign country

(1) A person who with the aim to hijack an aircraft to a foreign country seizes control over such aircraft or, without permission, uses an aircraft entrusted to him shall be punished by imprisonment for a term of three to ten years of by forfeiture of property.

(2) The offender shall be punished by imprisonment for a term of eight to fifteen years accompanied by forfeiture of property as the court deems fit, or by an exceptional sentence, if by the act described in paragraph 1 he or she causes serious bodily harm.

(3) The offender shall be punished by imprisonment for a term of twelve to twenty years or by an exceptional sentence, with any of these sentences accompanied by forfeiture of property as the court deems fit,

a) if by the act described in paragraph 1 he or she causes serious bodily harm to at least two persons or death, or
b) if he or she commits such act during the state of national emergency or the state of war.

(4) Preparation for this crime also constitutes a crime.

12) Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991; ratified on 18 December 1991; came into force on 21 June 1998.

The Czech Republic **is** a party to the Convention. The Convention does not require the introduction of new specific crimes. The Czech Republic has in place extensive regulations on the handling of controlled goods and technologies, as outlined in the Czech Republic's initial report, section 2 (d). Breaches of the bans and restrictions imposed by these regulations are punishable especially under Sections 124a-124f of the Criminal Code (covering actual imports or exports, including electronic transfers of technologies, as well as failure to provide relevant data in the licensing procedure, violation of other duties in the licensing procedure, etc.), as well as other provisions (see the Czech Republic's initial report, section 2 (a) B). Crimes under Sections 124a-124f carry prison sentences; the maximum basic sentences are two years (Section 124c), three years (Sections 124a, 124b, 124e, 124f) or eight years (Section 124d).

Regional convention:

European Convention on the Suppression of Terrorism, signed 13 February 1992, ratified on 15 April 1992, came into force in the Czechoslovak Federative Republic on 15 July 1992

The Czech Republic **is** a party to the Convention, as well as the conventions mentioned in its Articles 1 and 3. The Convention does not require the introduction of a specific new crime. For details see comments on subparagraph 3 (g) of the Czech Republic's third supplementary report to the CTC.

1.4

The conclusions of the World Bank/IMF Report outlined certain deficiencies in the Czech Republic's anti-money laundering and the financing of terrorism laws and executive machinery, and made a number of recommendations to correct these deficiencies. These were set out in an Action Plan. The CTC would appreciate it if the Czech Republic could provide an outline of the actions taken or contemplated with respect to each of these recommendations that are not included in the answers provided to paragraphs 1.1 and 1.3 above. It would be useful for the CTC to be provided with a timeline for implementing those recommendations not yet implemented.

The table below analyses the WB/IMF Report and shows the deficiencies and steps that have been or will be taken to correct them.

Deficiency	*Current status*
FAU (Financial Analytical Unit) should make more effective use of the available resources to come to more productive and expeditious results. Some cases take a long time to process and reach final decision.	Corrected: FAU has adopted some internal measures and reviewed its procedures for dealing with suspicious transaction reports (STR). Priority is given to cases that might lead to criminal prosecution or seizure of proceeds.
With respect to the high number of entities supervised by the FAU, the number of on-site inspections is very low and should be increased.	The new Anti-Money Laundering Act effective from 1 September 2004 broadens the range of authorities competent to exercise supervision in the area of money laundering and terrorist financing.
The FAU is recommended to produce an annual report on its activity and findings which would provide the necessary feedback to which the reporting entities and other involved agencies are entitled.	Corrected: The annual report for the period 1999-2004 is being finalized. Further annual reports will be presented regularly on an annual basis.
The cross-border co-operation with counterpart FIU's is unfortunately still formally restricted to jurisdictions that are party to bilateral treaties or to the Strasbourg Convention.	Corrected: The amendment to Act No. 61/1996 (Act No. 284/2004 of 8 April 2004, effective from 1 September 2004 – new Anti-Money Laundering Act) provides that the FAU may exchange information with foreign authorities having the same competence, either within the scope determined by an international treaty or on the basis of reciprocity.
It is necessary to ensure that there are no legal impediments for FAU to provide information and statistics on financial institutions' compliance with the reporting duty.	Corrected: The new Anti-Money Laundering Act exempts FAU from the confidentiality requirement for the purposes of communication with all authorities that supervise the reporting entities' compliance with the reporting duty.
There is no legal obligation to update the identification information of customers when doubts appear as to their identity in the course of a business relationship. The financial institutions only have to identify the natural person acting on behalf of a legal person for a given transaction. There is no legal obligation to identify the beneficial owners of the legal person.	Corrected: Both requirements are included in the new Anti-Money Laundering Act effective from 1 September 2004. For banking institutions, this obligation is also established by Czech National Bank Regulation No. 1 of 8 September 2003. Potential further rules on the identification of the beneficial owner will be introduced on the basis of the obligations arising from the 3rd AML Directive.

The legal requirement of the AML Act is limited to transactions that are subject to identification, therefore financial institutions are not required to keep all necessary records concerning customer transactions and account for the given period of time following the completion of the transaction, nor is there any requirement to maintain records on account files and business correspondence for the given period of time following the termination of an account or business relationship.	Corrected: The problem is solved by the new Anti-Money Laundering Act.
There should be a requirement for financial institutions to report suspicions of terrorism financing.	Corrected: The new Anti-Money Laundering Act imposes on the reporting entities the duty to report such information to FAU.
The legislation of the Czech Republic does not explicitly require financial institutions to keep originator information on fund transfers.	A solution is under preparation: Potential introduction of this duty will be considered in connection with the planned amendments to the Payment Systems Act or the Foreign Exchange Act (especially in the context of the prepared EU Regulation)
The penalties for money laundering are lower than required by the international standards.	A solution is under preparation: In the draft new Criminal Code, the crime of legalisation of proceeds of crime under Section 192 and the crime of complicity under Section 190 carry four-year prison sentences.
The legislation of the Czech Republic does not contain a specific criminal offence of terrorism financing.	Corrected: The amendment to the Criminal Code effective from 22 October 2004 introduces a new crime of terrorist attack. Its paragraph 2 criminalizes the activity of persons who deliberately provide financial support to terrorists.
The law does not provide for the confiscation/forfeiture of assets of equivalent value, where the proceeds of a crime have disappeared.	Corrected: Section 71 of the draft new Criminal Code permits the forfeiture of assets of equivalent value in cases when the offender destroys, damages, transfers, makes unusable or uses up or expends, the proceeds of a crime before the sentence is imposed, or otherwise impedes the forfeiture. Forfeiture of assets of equivalent value can be applied even if the proceeds are encumbered with third party rights.

There are still no prosecutions for negligent money laundering, which only requires minimal criminal intent. It suggests there is something fundamentally wrong in the system, ensuring an efficient detection and prosecution of criminal assets, that has all the components in place, but ultimately does not produce any results in terms of convictions and asset recovery.	A solution is under preparation: The amendment to the Criminal Code introducing the crime of negligent money laundering took effect on 1 July 2002. As a result, there was relatively little time left to detect such crimes and complete the criminal proceedings, including conviction and asset recovery. However, the system will be revised to identify the causes of its failures.
The relevant authorities should ratify and implement fully the UN International Convention for the Suppression of the Financing of Terrorism.	The Convention has not yet been ratified but the ratification process is under preparation.
The authorities of the Czech Republic are not yet able to unconditionally freeze funds or property of terrorists and of those who finance terrorism and terrorist organisations in accordance with the relevant UN Security Council Resolutions (UNSCRs).	A solution is under way: A new draft General Sanctions Act i.a. enables the Czech Republic to carry out the tasks arising from EC Council Regulation No. 2580/2001.
As there is no legal obligation, financial institutions in general do not routinely pay special attention to complex, unusually large transactions or unusual patterns of transactions, to examine their background and to keep their findings available for the competent authorities.	This problem is resolved by the new Anti-Money Laundering Act. Banking institutions are moreover subject to CNB Regulation No. 1/2003.

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The CTC should appreciate if the Czech Republic would share with it any further assessments or evaluations, especially those related to the operational measures, in connection with the implementation of the Resolution, that were carried out by any international or regional institution or organisation.

On 23-25 November 2004, the Czech Republic hosted the **Peer Evaluation Mission of EU Council on anti-terrorism arrangements**, initiated by Council Decision 2002/996/JHA of 28 November 2002 (to evaluate the EU Member States' organisational and legal framework in the area of their capability to respond to the terrorist threat). The evaluation concerned i.a. the implementation of EU documents relevant to some aspects of the UNSC resolution 1373. The first draft evaluation report will be presented to the Czech Republic for comments before the end of January 2005. Information on its contents is to be submitted to the National Security Council during the first quarter of 2005.

The World Bank and IMF reports are based on documents that are primarily subject to independent monitoring e.g. by the Financial Action Task Force (FATF) or the Council of Europe (MONEYVAL). The Czech Republic takes an active part in the long-term monitoring activities of such bodies (MONEYVAL, GRECO, OECD). However, their monitoring usually focuses on areas other than the struggle against terrorism and terrorist financing.

The recommendations made by these and other international organisations receive special attention in the process of drafting amendments to Czech laws (for example, the government's explanatory report to the Parliament concerning Section 192 of the draft new Criminal Code explicitly refers to MONEYVAL recommendations).